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Supreme Court, U. S.
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In The

Supreme Court of the United States

In Equity

October Term, 1935

No. [redacted] 5, ORIGINAL

THE STATE OF NEBRASKA, *Complainant*,

vs.

THE STATE OF WYOMING, *Defendant*.

Objections to Intervention of Platte Valley Public Power and Irrigation District

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Attorney General of
Wyoming,
Solicitor for Defendant.

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THE STATE OF NEBRASKA, *Complainant*,

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THE STATE OF WYOMING, *Defendant*.

Objections to Intervention of Platte Valley Public Power and Irrigation District

When this suit was originally instituted the defendant made a motion to dismiss the suit and one of the grounds urged was the lack of necessary parties.

Of course, as we understand the rule, if the Court had been of the opinion that the Bill of Complaint did not include all necessary parties, it might have dismissed the suit or granted the complainant leave to bring in the additional necessary parties.

The State of Nebraska opposed the bringing in of additional parties and successfully urged that the present parties are the only necessary parties because the State of Nebraska represents all appropriators interested in the streams involved in this case, whose appropriations arise under its laws, and the State of Wyoming likewise represents all appropriators of water from said streams whose appropriations arise under the laws of said State.

In overruling the motion interposed by the defendant, in an opinion of this Court which was handed down April 1, 1935, we find this language:

> "The motion asserts that the Secretary of the Interior is an indispensable party. The Bill alleges, and we know as a matter of law, that the Secretary and his agents, acting by authority of the Reclamation Act and supplementary legislation, must obtain permits and priorities for the use of water from the State of Wyoming in the same manner as a private appropriator or an irrigation district formed under the state law. His rights can rise no higher than those of Wyoming, and an adjudication of the defendant's rights will necessarily bind him. Wyoming will stand in judgment for him as for any other appropriator in that state. He is not a necessary party."

We might paraphrase this language with reference to the application of the Platte Valley Public Power and Irrigation District as follows:

> "The bill alleges and we know as a matter of law that the Platte Valley Public Power and Irrigation District must obtain permits and priorities pursuant to the provisons of Chapter 86 of the Laws of Nebraska, 1933, in the same manner as any other appropriator or irrigation district formed under the law of that state. Its rights can rise no higher than those of Nebraska and an adjudication of the complainant's rights will necessarily bind it. Nebraska will stand in judgment for it as for any other appropriator in that state. It is not a necessary party."

We assume, of course, that the State of Nebraska, to be consistent, must join in our opposition to the intervention of the Platte Valley Power and Irrigation District.

Since all appropriators in the respective states are represented by those states as parties to this suit, we do not think that any intervention should be permitted or required except as to indispensable parties, and under the rule previously laid down, we think it is clearly evident that the Platte Valley Public Power and Irrigation District is not an indispensable party.

Respectfully submitted,

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